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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,962	02/21/2006	Masanori Masuda	DK-US055309	8550
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EXAMINER				
DUFF, DOUGLAS J				
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3748				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,962

Applicant(s)

MASUDA, MASANORI

Examiner

DOUGLAS J. DUFF

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/08 has been entered.

DETAILED ACTION

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "a center that is outside a path with a radius of an eccentric amount of the eccentric rotation body with respect to the center of the drive shaft" is indefinite and fails to distinctly claim the structural limitations of the pressing mechanism. Specifically, "a radius of an eccentric amount" does not define a structural limitation, as the term "eccentric" refers to a position relative to a center. The claim language does not make clear the eccentric amount of a radius since an eccentric amount cannot refer to the displacement or size of a radius. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Barito (US 4992032). Barito discloses a rotary compressor, comprising a compression mechanism including a cylinder (between 10 and 11) having a cylinder chamber (inside 10-1 and 11-1), a piston (10-1) accommodated in the cylinder chamber eccentrically with respect to the cylinder (11-1), and a blade (inside edge of 10-1 near discharge, Fig. 1) arranged in the cylinder chamber and defining the cylinder chamber into a first chamber (B) and a second chamber (A), at least one of the cylinder and the piston rotating eccentrically as an eccentric rotation body (Fig. 4), a drive shaft (col. 1, line 26) configured for driving the compression mechanism; a pressing mechanism (23) configured for bringing a cylinder side end plate (10), which is provided at one end in an axial direction of the cylinder chamber and faces an end face in an axial direction of the piston (Fig. 4), and a piston side end plate (11), which is provided at the other end in the axial direction of the cylinder chamber and faces an end face in an axial direction of the cylinder (Fig. 4), close to each other in an axial direction of the drive shaft (Fig. 4); and a casing (attached to 11) configured for accommodating the compression mechanism, the drive shaft, and the pressing mechanism the pressing mechanism (23) being eccentric away from the a center of the cylinder side (10) or the piston side end plate of the

eccentric rotation body (see left and right side of 23, Fig. 4) and the pressing mechanism generating an axial-direction pressing force with a center of the pressing mechanism being eccentric away from a center of the drive shaft (as 10 orbits to left of Fig. 4, 23 must be shown to maintain eccentricity relative to center of drive shaft bore at bottom of Fig. 4), the compression mechanism having a plurality of discharge ports (10-5, 10-7) configured for discharging fluid compressed in the cylinder chamber to an outside of the compression mechanism, and the pressing mechanism generating a pressing force in the axial direction, the pressing mechanism having a center (Fig. 5 center of 23) that is outside a path (outside of non-illustrated crankshaft axis) with a radius of an eccentric amount of the eccentric rotation body with respect to the center of the drive shaft (eccentric to non-illustrated crankshaft) and eccentric to the discharge ports (Fig. 4, 10-5, 10-7 are eccentrically centered to 23) away from a center of the cylinder side or piston side end plate (10) of the eccentric rotation body (offset, Fig. 5), the cylinder having a slit (12) that is formed at a portion eccentric from a center of the eccentric rotation body (inside diameter of slit 12 is centered on non-illustrated crankshaft and eccentric to the eccentric rotation body 10) in a face portion (bottom face of 10) opposite a face on a cylinder chamber side (top side of plate 10) of the cylinder side end plate of the eccentric rotation body, the slit being disposed on only one side of the cylinder (bottom side, Fig. 4) and the pressing mechanism allowing pressure of fluid discharged outside the compression mechanism to work on the slit (10-5, 10-7).

6. Regarding claims 2 and 3, Barito discloses the rotary compressor of claim 1, wherein the cylinder chamber has a circular shape (Fig. 1) when viewed perpendicularly

from the axial direction, and the piston is substantially circular (Fig. 1) and the cylinder chamber has an annular shape when viewed perpendicularly from the axial direction (Fig. 1), and the piston includes a substantially annular piston arranged in the cylinder chamber (10-1) and defining the cylinder chamber into an outer cylinder chamber (B) and an inner cylinder chamber (A).

7. Regarding claims 6-8, Barito discloses the compressor of claim 1 including the pressing mechanism having a support plate (30) that is arranged along a side of the cylinder side (10) or the piston side end plate of the eccentric rotation body, a sealing ring (23) for defining a first opposing section between the cylinder side or the piston side end plate and the support plate on an inner side in a radial direction (inside 23, Fig. 4) and a second opposing section between the cylinder side end plate and the support plate on an outer side in the radial direction (outside of 23), the sealing ring is arranged eccentrically away from a center of the eccentric rotation body (shown in Fig. 4) in one of the cylinder side end plate (10), the piston side end plate of the eccentric rotation body and the support plate and the pressing mechanism allows a fluid pressure discharged outside the compression mechanism (10-5) to work on the first opposing section, the sealing ring fitted in an annular groove (16-2) formed in one of the eccentric rotation body (10) and the support plate, the cylinder has a slit (16-2) formed in a portion (Figs. 3, 4) eccentric from a center of the eccentric rotation body in a face portion opposite (bottom side) a face on a cylinder chamber side of the cylinder side end plate (10) of the eccentric rotation body and the pressing mechanism allows pressure of fluid discharged outside the compression mechanism to work on the slit (10-4).

8. Regarding claims 9-11, Barito discloses the rotary compressor of claim 1, wherein the cylinder side has a groove (16-2) and a through hole (10-4), the groove formed in a portion eccentric from the a center of the eccentric rotation body on a face opposite a face on a cylinder chamber side of the end plate (bottom side) of the eccentric rotation body (10) and the through hole formed in the cylinder side end plate (10) for allowing the groove to communicate with the cylinder chamber and the pressing mechanism introduces a portion of fluid compressed in the cylinder chamber into the groove through the through hole to allow the a pressure of the fluid to work on the groove (Fig. 4), a sealing mechanism (tip where 10-1 meets 11) arranged to prevent leakage of fluid in at least one of a first axial direction gap between an end face in the axial direction of the cylinder and the piston side end plate and a second axial direction gap between an end face in the axial direction of the piston and the cylinder side end plate, the sealing mechanism includes a chip seal (Background, 131 of Shaffer, U.S. 3994633) provided at least one of the first axial direction gap and the second axial direction gap.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barito in view of Fox (US 2073101). Barito discloses the compressor of claim 3, but fails to

disclose the piston has a gap dividing the piston into a C-shape with a swing bushing slidably held in the gap and forming a blade groove configured for holding the blade so as to allow the blade to move back and forth in the swing bushing and the blade is in a blade groove so as to extend from a wall face on an inner peripheral side to a wall face on an outer peripheral side of the annular cylinder chamber, a plurality of discharge ports for discharging fluid in the cylinder chamber to an outside of the compression mechanism.

11. Fox teaches a compressor with a piston having a gap dividing the piston into a C-shape with a swing bushing (Fig. 11) slidably held in the gap (Figs. 13, 14) and forming a blade groove (51, 51) configured for holding the blade so as to allow the blade to move back and forth in the swing bushing and the blade is in a blade groove so as to extend from a wall face (R, Fig. 1) on an inner peripheral side (inside R) to a wall face on an outer peripheral side (outside R) of the annular cylinder chamber (IC), a plurality of discharge ports (C, D) for discharging fluid in the cylinder chamber to an outside of the compression mechanism. It would have been obvious for a person having ordinary skill in the art at the time the invention was made to utilize a compressor of the above description in order for fluid pressure to be admitted to simultaneously work in two chambers, resulting in the continuous application of fluid pressure to the chambers so there is no dead center in the prime mover (col. 1, lines 45-53).

Response to Arguments

12. Applicant's arguments filed 11/17/08 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies (i.e., center of pressing force) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Applicant argues that Barito fails to disclose the claim limitations of a center of pressing force, but Applicant only claims a center of a pressing mechanism, not a center of a pressing force.

13. Regarding the argument that Barito does not disclose the claimed features of the compression mechanism, including a slit located on only one side of the cylinder, the Examiner respectfully disagrees. As stated in the rejection above, Barito discloses the slit 12 clearly disposed below the cylinder in Figure 4. The Applicant recites 10-5 and 10-7 as the slits, however, as shown above, these items refer to the discharge ports which allow pressure of fluid to work on the slit.

Conclusion

14. This is a continuation of applicant's earlier Application No. 10/568962. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS J. DUFF whose telephone number is (571)272-3459. The examiner can normally be reached on M-Th 7 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas E. Denion/
Supervisory Patent Examiner, Art Unit 3748

/Douglas J Duff/
Examiner, Art Unit 3748
1/30/09